IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 8TH NOVEMBER 2006 / 17TH KARTHIKA 1928

Bail Appl..No. 6358 of 2006()

AGAINST THE ORDER IN BA.654/2005
CRIME NO.476/2002 OF KUNNAMKULAM POLICE STATION.

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PETITIONER/6TH ACCUSED

SHAFI, AGED 27 YEARS,
S/O.KUNJI MOHAMMED, ARACKAL HOUSE,
THEKKENCHERY, CHAVAKKAD, THRISSUR.

BY ADV. SRI.M.K.DAMODARAN (SR.)
SRI.P.K.VIJAYAMOHANAN
SRI.SOJAN MICHEAL

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA, REPRESENTED
BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M. JAMES, J.

Bail Application No.6358 of 2006

Dated this the 8th November, 2006.

O R D E R

Petitioner is the 6th accused in Crime No.476/2002 of Kunnamkulam Police Station, for the offence punishable under Sections 143, 147, 148, 341, 323, 324, 326, 307 and 120B IPC, read with Section 149 IPC. It is alleged that because of the previous enmity of the first accused towards the complainant, Jackson, accused 8 to 10 had conspired with the first accused, and as a result of the said conspiracy, they have procured the services of accused 2 to 6. The latter came in their motor bikes armed with deadly weapons like sword and iron rods, and attacked the de facto complainant, because of which he sustained injuries.

2. I heard the arguments advanced by the learned counsel appearing for the petitioner, 6th accused. It is submitted that his name was not originally mentioned in the F.I.Statement, consequently in the F.I.R. also. During the investigation, it was found that he was one among the persons who came in their motor bikes, and having carried them back, from the spot of occurrence, after committing the crime. Thus, he has shared the common object with other accused, unless otherwise proved during the trial. Petitioner is now before this Court under Section 438 Cr.P.C. for a pre-arrest order.

3. The learned Public Prosecutor submitted that though pre-arrest order was granted in respect of the 8th accused, being one of the conspirators, the petitioner having actively involved in transporting the other accused armed with weapons, his interrogation is necessary.

4. Considering the materials that are placed before me, and the submissions made by either side, I dispose of the application, directing the petitioner to surrender before the Investigating Officer of Kunnamkulam Police Station, who is investigating the Crime No.476/2002 of that police station, on 15.11.2006, between 9.30 and 10 a.m.

5. The investigating officer shall interrogate the petitioner, and produce him before the court below, as per the law.

6. The learned Magistrate, after hearing both sides, shall allow the petitioner to be on bail, imposing such conditions, as are deemed necessary, provided there is no prayer for custodial interrogation of the petitioner by the prosecution.

J.M. JAMES,
JUDGE

nj.